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**Federal Communications Commission**

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**Before the  
Federal Communications Commission  
Washington, D.C. 20554**

In the Matter of

Tekk Comm Communications  
WPPT607  
Waterford, New Jersey

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File No. EB-02-PA-301

NAL/Acct. No. 200332400001

FRN: 0004-4496-41

**NOTICE OF APPARENT LIABILITY FOR FORFEITURE**

**Released: October 22, 2002**

By the District Director, Philadelphia Office, Enforcement Bureau:

**I. INTRODUCTION**

1. In this Notice of Apparent Liability for Forfeiture (“NAL”), we find that Tekk Comm Communications (“Tekk”) has apparently violated Section 1.903(a) of the Commission’s Rules (the “Rules”).<sup>1</sup> The violation occurred because Tekk operated station WPPT607 on the frequency 464.375 MHz at an unauthorized location. We conclude that Tekk is apparently liable for a forfeiture in the amount of four thousand dollars (\$4,000).

**II. BACKGROUND**

2. While conducting an audit of the Private Land Mobile Radio Services in the 450 – 470 MHz band on July 16, 2002, FCC agent David Dombrowski of the Philadelphia Office detected transmissions on the frequency of 464.375 MHz in the Williamstown, New Jersey area. A check of FCC databases indicated that the Commission had not authorized that frequency for use in Williamstown, New Jersey.

3. On August 15, 2002, the District Director of the Philadelphia Office assigned agent Frank Cranmer to investigate the source of the transmissions. During the investigation, the agent used direction-finding techniques to determine that radio transmitting equipment was being operated at 1277, Sykes Lane, Williamstown, New Jersey on the frequency 464.375 MHz. The agent monitored a short, pulse-type signal of less than 1 second duration being transmitted approximately every 10 seconds.

4. During further investigation, agent Cranmer found that Tekk had installed a transmitter at 1277 Sykes Lane, Williamstown, New Jersey to provide additional radio communications capabilities on

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<sup>1</sup> 47 C.F.R. § 1.903(a).

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the frequency 464.375 MHz. At the time of the investigation, Tekk was authorized to operate station WPPT607 on the frequency 464.375 MHz at RD5, Centerton Road, Centerton, New Jersey.

5. On August 28, 2002 between 9:00 a.m. and 10:15 a.m., the agent monitored radio transmissions on the frequency 464.375 MHz. Using direction-finding techniques, the agent determined that radio transmitting equipment was being operated at 1277 Sykes Lane, Williamstown, New Jersey on the frequency 464.375 MHz. When he arrived at the location, the agent encountered Gary Bendy, a Tekk employee, who was working at the location. The employee confirmed that Tekk was operating a transmitter on the frequency 464.375 MHz at 1277 Sykes Lane, Williamstown, New Jersey.

### III. DISCUSSION

6. Section 1.903(a) of the Rules requires that stations in the Wireless Radio Services must be used and operated only in accordance with the rules applicable to their particular service as set forth in this title and with a valid authorization granted by the Commission under the provisions of this part. On August 15, 2002 and August 28, 2002, Tekk operated a transmitter on the frequency 464.375 MHz at the unauthorized location of 1277 Sykes Lane, Williamstown, New Jersey.

7. Based on the evidence before us, we find that Tekk Comm Communications willfully<sup>2</sup> and repeatedly<sup>3</sup> violated Section 1.903(a) of the Rules. *The Commission's Forfeiture Policy Statement and Amendment of Section 1.80 of the Rules to Incorporate the Forfeiture Guidelines*, 12 FCC Rcd 17087, 17113 (1997), recon. denied, 15 FCC Rcd 303(1999) ("*Forfeiture Policy Statement*"),<sup>4</sup> sets the base forfeiture amount for operation of a station at an unauthorized location at \$4,000. In assessing the monetary forfeiture amount, we must take into account the statutory factors set forth in Section 503(b)(2)(D) of the Communications Act of 1934,<sup>5</sup> (the "Act"), as amended, which include the nature, circumstances, extent, and gravity of the violation, and with respect to the violator, the degree of culpability, any history of prior offenses, ability to pay, and other such matters as justice may require. Applying the *Forfeiture Policy Statement* and the statutory factors to the instant case and applying the inflation adjustments, we believe that a four thousand dollar (\$4,000) monetary forfeiture is warranted.

### IV. ORDERING CLAUSES

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<sup>2</sup> Section 312(f)(1) of the Act, 47 U.S.C. § 312(f)(1), which applies to Section 503(b) of the Act, provides that "[t]he term 'willful', when used with reference to the commission or omission of any act, means the conscious and deliberate commission or omission of such act, irrespective of any intent to violate any provision of this Act ...." *See Southern California Broadcasting Co.*, 6 FCC Rcd 4387 (1991).

<sup>3</sup> Section 312(f)(2), which also applies to Section 503(b), provides: [t]he term "repeated", when used with reference to the commission or omission of any act, means the commission or omission of such act more than once or, if such commission or omission is continuous, for more than one day.

<sup>4</sup> 47 C.F.R. § 1.80.

<sup>5</sup> 47 U.S.C § 503(b)(2)(D).

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8. Accordingly, IT IS ORDERED THAT, pursuant to Section 503(b) of the Act,<sup>6</sup> and Sections 0.111, 0.311 and 1.80 of the Rules,<sup>7</sup> Tekk is hereby NOTIFIED of its APPARENT LIABILITY FOR A FORFEITURE in the amount of four thousand dollars (\$4,000) for its operation of station WPPT607 at an unauthorized location.

9. IT IS FURTHER ORDERED THAT, pursuant to Section 1.80 of the Rules, within thirty days of the release date of this NOTICE OF APPARENT LIABILITY, Tekk SHALL PAY the full amount of the proposed forfeiture or SHALL FILE a written statement seeking reduction or cancellation of the proposed forfeiture.

10. Payment of the forfeiture may be made by mailing a check or similar instrument, payable to the order of the Federal Communications Commission, to the Forfeiture Collection Section, Finance Branch, Federal Communications Commission, P.O. Box 73482, Chicago, Illinois 60673-7482. The payment should note the NAL/Acct. No. 200332400001 and FRN: 0004-4496-41.

11. The response, if any, must be mailed to the Federal Communications Commission, Enforcement Bureau, Technical and Public Safety Division, 445 12th Street, S.W., Washington, D.C. 20554 and MUST INCLUDE THE NAL/Acct. No. 200332400001 and FRN: 0004-4496-41.

12. The Commission will not consider reducing or canceling a forfeiture in response to a claim of inability to pay unless the petitioner submits: (1) federal tax returns for the most recent three-year period; (2) financial statements prepared according to generally accepted accounting practices ("GAAP"); or (3) some other reliable and objective documentation that accurately reflects the petitioner's current financial status. Any claim of inability to pay must specifically identify the basis for the claim by reference to the financial documentation submitted.

13. Requests for payment of the full amount of this Notice of Apparent Liability under an installment plan should be sent to: Chief, Revenue and Receivables Operations Group, 445 12th Street, S.W., Washington, D.C. 20554.<sup>8</sup>

14. Under the Small Business Paperwork Relief Act of 2002, Pub L. No. 107-198, 116 Stat. 729 (June 28, 2002), the FCC is engaged in a two-year tracking process regarding the size of entities involved in forfeitures. If you qualify as a small entity and if you wish to be treated as a small entity for tracking purposes, please so certify to us within thirty (30) days of this NAL, either in your response to the NAL or in a separate filing to be sent to the Technical and Public Safety Division. Your certification should indicate whether you, including your parent entity and its subsidiaries, meet one of the definitions set forth in the list provided by the FCC's Office of Communications Business Opportunities (OCBO) set forth in Attachment A of this Notice of Apparent Liability. This information will be used for tracking purposes only. Your response or failure to respond to this question will have no effect on your rights and

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<sup>6</sup> 47 U.S.C § 503(b).

<sup>7</sup> 47 C.F.R. §§ 0.111 and 0.311.

<sup>8</sup> See 47 C.F.R. § 1.1914.

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responsibilities pursuant to Section 503(b) of the Communications Act. If you have questions regarding any of the information contained in Attachment A, please contact OCBO at (202) 418-0990.

15. IT IS FURTHER ORDERED THAT a copy of this NOTICE OF APPARENT LIABILITY shall be sent by Certified Mail, Return Receipt Requested, to Tekk Comm Communications, 6 Maiese Ave., Waterford, New Jersey 08322.

FEDERAL COMMUNICATIONS COMMISSION

John E. Rahtes  
District Director  
Philadelphia Office